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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 57TH MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 14 March 1985, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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The meeting was called to order at 3.45 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS (agenda item 8) (continued) (E/CN.4/1985/L.52, L.65, L.68, L.82, L.88 and L.89).

Draft resolution E/CN.4/1985/L.65 (continued)

1. Mr. QUINN (Australia), speaking in explanation of vote on draft resolution E/CN.4/1985/L.65, said that his country would have liked the Commission to give greater attention to economic rights. It had therefore abstained in the vote on the resolution because it considered that it was too early to take a decision on the text submitted by the German Democratic Republic which required more extensive consultations if the consensus that was essential was to be secured.

2. The text, as it stood, contained a number of positive features. First of all, any constructive initiative to focus attention on economic rights was welcome; he was particularly pleased to see a reference in the text to the study on the right to food undertaken by the Sub-Commission; the resolution also very properly reaffirmed the indivisibility of economic, social and cultural rights and civil and political rights.

3. On the other hand, he had difficulty with other elements in the resolution. He was sceptical about the value of a "global assessment" of progress achieved in the implementation of economic, social and cultural rights. The Commission should not only give more precision to its request, but ought also to base its action primarily on existing international instruments. The invitation addressed to the Directors-General of the specialized agencies to report to the Commission could not be regarded as incompatible with the arrangements made under articles 18 to 20 of the International Covenant on Economic, Social and Cultural Rights. His delegation also had some difficulties with operative paragraph 5 which sought to revive a study which, to some extent had been overtaken by events. If certain of its paragraphs had been amended, Australia would have been able to support the resolution.

4. He also regretted that the resolution did not give sufficient attention to the basic instrument, the International Covenant on Civil and Political Rights, and did not address the need to strengthen implementation procedures. He hoped that at the Commission's next session, a resolution would be developed on the subject, on which there would be extensive negotiations in the early part of the session, with a view to a consensus.

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS: ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AIMING AT THE ABOLITION OF THE DEATH PENALTY (agenda item 18) (continued) (E/CN.4/1985/L.75, L.76 and L.35; E/CN.4/1985/3, Chapter I-A, draft resolution II).

Draft resolution E/CN.4/1985/L.75

5. Mrs. RASI (Finland), introducing draft resolution E/CN.4/1985/L.75 on behalf of its sponsors, emphasized the importance they attached to the International Covenants on Human Rights and the encouragement they felt on seeing that more countries had ratified the instruments.

6. The sponsors had wished to draw attention to the increasing responsibilities of the Economic and Social Council in relation to the Covenants; they had also wished to emphasize the importance of the forthcoming review by the Council, at its first regular session in 1985, of the report of the Secretary-General referred to in operative paragraph 9.

7. The sponsors attached great importance to the need to give the Centre for Human Rights sufficient means to assist effectively the Human Rights Committee and the Council itself in discharging their respective tasks under the Conventions. They also stressed the usefulness of advisory services for the preparation of reports by States parties.

8. In conclusion, she stated that the Netherlands had asked to become a sponsor. She hoped that the draft resolution would be adopted without a vote.

9. Draft resolution E/CN.4/1985/L.75 was adopted without a vote.

Draft decision E/CN.4/1985/L.76/Rev.1

10. Mr. HÖYNCK (Federal Republic of Germany) recalled that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recommended that the Commission should entrust a special rapporteur, Mr. Bossuyt, with preparing an analysis concerning the proposition to elaborate a second optional protocol aiming at the abolition of the death penalty. He hoped that the Commission would accept the recommendation, which could then be submitted to the Council for approval, in order to finalize the mandate of the special rapporteur; Mr. Bossuyt could start work immediately, and submit recommendations to the Sub-Commission at its thirty-ninth session, in 1986.

11. He believed that the Sub-Commission should have sufficient time to make a thorough study of the question, and that it should be requested to report to the Commission, not at its next session, but at the forty-third session, in 1987. The Commission would thus be seized of the question in two years' time.

12. His delegation was aware that the problem needed careful study, and that all its consequences should be weighed by all the governments, organizations and peoples concerned. It hoped that its draft decision would be adopted by consensus.

13. The CHAIRMAN pointed out that the financial implications of the draft appeared in document E/CN.4/1985/L.35.

14. Draft decision E/CN.4/1985/L.76/Rev.1 was adopted without a vote.

15. The CHAIRMAN said if there was no objection, he would take it that the Commission decided to endorse the recommendation by the Sub-Commission to entrust a special rapporteur to analyse the question of the elaboration of a second optional protocol, subject to approval by the Council.

16. It was so decided.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued)(E/CN.4/1985/L.49 and L.79)

Draft resolution E/CN.4/1985/L.49

17. Mr. MONTAÑO (Mexico), introducing draft resolution E/CN.4/1985/L.49 on behalf of its sponsors, stressed that the text drew on the observations made by the Special Rapporteur, both in his report and in his introduction to the General Assembly. By means of the draft, the sponsors had sought to express their profound concern about the situation of human rights in Chile. September 1985 would mark the twelfth year that had elapsed since the beginning of the long process of the destruction of human rights in Chile. It was undeniable, and all the information media confirmed the fact, that the general human rights situation was currently deteriorating in that country, with violations of unprecedented seriousness.

18. The sponsors wished to make two amendments to the current text. First, in the penultimate preambular paragraph the word "vicious" should be replaced by the word "systematic". In operative paragraph 6 (f), "economic and" should be inserted before "social status".

19. Finally, he requested that a roll-call vote should be taken on the draft resolution.

20. The CHAIRMAN drew the Commission's attention to the financial implications of the draft, published in document E/CN.4/1985/L.79.

21. Mr. THWAITES (Australia) and Mr. FERJANI (Libyan Arab Jamahiriya) asked to be included among the sponsors of the draft resolution.

22. Mr. SCHIFTER (United States of America), speaking in explanation of vote, said the vast majority of Chileans wanted to see democracy re-established in their country; the United States of America was in full sympathy with that wish, believing democracy to be the best guarantor of human rights.

23. For that very reason, his country had attached great hopes to a dialogue between the Chilean Government and the responsible opposition parties on the timing and procedures for a transition to a democratic system. To its regret, that dialogue had ended abruptly. His delegation urged that the discussions between the Government and the representatives of the democratic forces should be resumed until they produced a national consensus and firm commitment to a timetable for the restoration of democracy.

24. At the last three sessions, his country had voted against resolutions similar to that now before the Commission, calling attention to the continuing improvements in the human rights situation in Chile. It was highly regrettable that the trend had not continued during the current year and that the situation had regressed recently. His country deplored in particular practices such as internal exile for political reasons and harsh repressive measures under the state of siege. His Government had made its views known to the Chilean Government, both privately and publicly, urging it to take immediate corrective measures, beginning with the lifting of the state of siege. It believed that it was time for Chile's fine and honourable tradition of democracy to be re-established.

25. His delegation had repeatedly called attention to the double standard applied to various countries in the United Nations system. The text of the draft resolution reflected that double standard, since it applied to Chile standards which the Commission did not apply to other States and which, in fact, many members of the United Nations did not observe. Many of the concerns expressed in the draft were shared by his country, which had repeatedly set them out in communications to the Government of Chile. There was a difference, however, between the point of view which his country was ready to state directly to the Chilean authorities and its position in the United Nations context, where Chile was not accorded the same treatment as other countries. There was every reason to believe that Chile would return to a democratic system within the next five years, and in these circumstances there was no justification for calling on it to take certain measures when one avoided making similar calls to other countries with far more repressive systems.

26. For that reason, his delegation would vote against the draft resolution. However, it had no objection to extending the Special Rapporteur's mandate and would have voted in favour of operative paragraph 8 if a separate vote had been taken on it.

27. At the request of the representative of Mexico, a vote was taken by roll-call on draft resolution E/CN.4/1985/L.49.

28. The United States of America, having been called by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bulgaria, Cyprus, Colombia, Congo, Costa Rica, Finland, France, Gambia, German Democratic Republic, Germany, Federal Republic of, India, Ireland, Japan, Kenya, Lesotho, Libyan Arab Jamahiriya, Mexico, Mozambique, Netherlands, Nicaragua, Senegal, Spain, Sri Lanka, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: United States of America.

Abstaining: Bangladesh, Brazil, Cameroon, China, Jordan, Liberia, Peru, Philippines.

29. Draft resolution E/CN.4/1985/L.49 was adopted by 32 votes to 1, with 8 abstentions.

30. Mr. NICOLAIDES (Cyprus) said that his country was deeply saddened by the situation in Chile, and fervently hoped that that country would soon follow the example set by Argentina and Uruguay, so that the Chilean people could recover their rights, as they deserved.

31. Mrs. OGATA (Japan) said that she expected that the Chilean Government would make further efforts to improve the situation in the country. While her delegation was aware of the difficulties confronting that Government and while it did not entirely subscribe to a number of somewhat exaggerated expressions used in the resolution, it was concerned about the worsening human rights in Chile.

32. Sir Anthony WILLIAMS (United Kingdom) said that he had already had occasion to state his Government's deep concern over the human rights situation in Chile, but wished to state its reservations about the selectivity shown towards Chile on human rights issues, as well as the substance of the resolution, in which there was no reference to terrorist violence, which the United Kingdom also condemned. He also attached particular importance to paragraph 7 of the resolution.

33. Mr. HOYNCK (Federal Republic of Germany) said that he had supported the resolution because of his delegation's serious misgivings about the human rights situation in Chile, although it was not entirely satisfied with the wording of the resolution, and in particular operative paragraph 2. Having stated that reservation, the general tone of the resolution was perfectly fair and accurately reflected the extremely complex situation obtaining in Chile, and characterized inter alia by the attitude of a Government whose conduct caused perplexity.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION; ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS; NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (continued) (E/CN.4/1985/L.63, L.70 and L.77)

Draft resolution E/CN.4/1985/L.63

34. Mr. de SILVA (Sri Lanka) introduced, on behalf of the delegations of Australia and Bangladesh and of his own delegation, draft resolution E/CN.4/1985/L.63, on regional arrangements for the promotion and protection of human rights in the Asian region.

35. Information relating to human rights and fundamental freedoms needed to be disseminated broadly in that region and a programme of education on human rights implemented at all levels of society. Such a programme would require the support of competent United Nations bodies and more particularly that of the Centre for Human Rights. While the international bodies involved in human rights could be of great assistance, an institution tailored to meet the special needs of the Asian region would be of even greater value.

36. On the occasion of the Seminar on National, Local and Regional Arrangements for the Promotion and Protection of Human Rights in the Asian Region, held at Colombo from 21 June to 2 July 1982, a study had been made of the various arrangements made in other regions of the world, in order to draw on the fund of experience available. Participants in the Seminar had decided that it should neither follow blindly those arrangements which had proved satisfactory in other regions of the world nor reject them out of hand, and had taken the view that it would be prudent to recommend that specific arrangements, appropriate to the needs of the Asian region, should be developed. His delegation had made proposals along those lines, both to the General Assembly, at its thirty-seventh session, and to the Commission, at its fortieth and current sessions.

37. In drawing up the draft resolution, the sponsors had taken account of the views expressed by various delegations. They had considered that its text should reflect the inadequate response to the request for comments addressed to the States members

of the ESCAP region (see operative paragraph 2) and also the request made to the Secretary-General to consider the establishment of a regional depository centre for human rights materials for Asia and the Pacific (see operative paragraph 4).

38. The sponsors hoped that the draft resolution could be adopted by consensus.

39. Draft resolution E/CN.4/1985/L.63 was adopted without a vote.

Draft resolution E/CN.4/1985/L.70

40. Mr QUINN (Australia) introduced draft resosution E/CN.4/1985/L.70 on behalf of the delegations of Argentina, Australia, Colombia, Costa Rica, Gambia, India, Ireland, Libyan Arab Jamahiriya, Jordan, Netherlands, Peru and Yugoslavia. He announced that the sponsors had agreed to revise operative paragraph 6 to read:

> "Requests the Secretary-General to collect, within existing resources during the current budget period, relevant material in the field of human rights already prepared by specialized agencies, regional bodies, groups and individuals, with a view to preparing a basic human rights teaching booklet in the six official languages of the United Nations and to include this project as a priority item in a future biennial budget."

41. Operative paragraph 1 of the draft resolution repeated the general encouragement to Governments, which were primarily responsible for such activities, to pursue public information activities in the field of human rights, with particular emphasis on the dissemination of the Universal Declaration of Human Rights and the International Covenants on Human Rights. It stressed the importance of the media in that process, since it was obvious that effective dissemination of information depended on the creative use of radio, television and the press. Operative paragraphs 3 and 4 reproduced provisions appearing in the Commission's earlier resolution (1984/58). Operative paragraph 3 concerned the preparation of the personalized version of the Universal Declaration of Human Rights as an important means of disseminating widely throughout all communities information on human rights. The proposed personalized version, with a brief introduction by the Secretary-General, was annexed to the report of the Secretary-General on the question (annex III, E/CN.4/1985/16). Operative paragraph 4 took up the question of the preparation of a list of basic reference works on human rights for use by United Nations Information Centres and other interested bodies. In the above-mentioned report, the Secretary-General indicated that the first measures had been taken along those lines, but the sponsors considered that there was still much to be done. It was particularly important that the list should be circulated to all United Nations Information Centres.

42. Operative paragraph 5 addressed the proposals to make greater use of audio-visual techniques for both children and adults, and of computer technology in the preparation and distribution of United Nations materials in the field of human rights. Much could be done in that regard, within existing resources.

43. The most significant new element appeared in operative paragraph 6, as amended. The Secretary-General was requested to begin work on the preparations for a human rights teaching booklet in the six official languages of the United Nations. A two-stage process was envisaged: initially, the documents already prepared by specialized agencies, regional bodies, groups and individuals would be collected and, as a second step the project would be included as a priority item in a future biannual budget. The amendment had been made in order to avoid any financial implications.

44. The other new theme, which appeared in operative paragraphs 7, 8 and 10, concerned the need for mobilizing the entire United Nations system, including the specialized agencies and United Nations Information Centres, to assist in the dissemination of human rights materials. Operative paragraph 10 made a special request that an inventory should be made of the stocks of human rights materials available within the United Nations, and that it should be submitted to the Commission at its next session.

45. The draft resolution also sought to give support to regional activities in the field of public information since the regional commissions clearly had an important role to play.

46. His delegation stressed that the draft resolution involved no financial implications, and it was confident that much could be done, within existing resources, to achieve a wider knowledge of the fundamental human rights instruments and the activities of the United Nations in that field.

47. Mr SENE (Senegal) pointed out that the education services of Senegal sought to give broad publicity to all information concerning human rights and, in particular, the work of the Commission and of the United Nations bodies actively engaged in disseminating the ideals of the Universal Declaration and the Covenants. His delegation was therefore very much interested in the draft resolution, and in particular the amended version of paragraph 6, which was the key paragraph. It would like the word "groups" in that paragraph to be replaced by "non-governmental organizations". A number of those organizations had prepared human rights teaching booklets, as in the case of Ecole et Paix.

48. Mr. QUINN (Australia) said that the word "groups" had a broader connotation for the sponsors than the words "non-governmental organizations". For instance, many countries had para-State commissions to protect human rights. If the sponsors agreed to Senegal's suggestion, which was a useful one, his delegation was ready to go along with it.

49. Mr SENE (Senegal) proposed that both terms should be retained and that the words "non-governmental organizations" should be inserted between "groups" and "and individuals".

50. Draft resolution E/CN.4/1985/70, as orally amended, was adopted without a vote.

Draft decision E/CN.4/1985/L.77

51. Mr TOŠEVSKI (Yugoslavia) introduced, on behalf of the delegations of Cyprus and India and his own delegation, draft decision E/CN.4/1985/L.77, a procedural text which needed no comment. However, several delegations and representatives of regional groups had approved its letter and spirit.

52. The sponsors hoped that the draft could be adopted by consensus.

53. Mr CLEMENT (France), referring to the French language version of the draft decision, said that he would like the words "sur l'action visant à" in the fourth line to be replaced by the words "des moyens mis en oeuvre pour".

54. Draft decision E/CN.4/1985/L.77 was adopted without a vote.

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (agenda item 13) (continued) (E/CN.4/1985/L.1, L.74 and L.86)

Draft resolution E/CN.4/1985/L.74

55. Mr. LEBAKINE (Ukrainian Soviet Socialist Republic) introduced draft resolution E/CN.4/1985/L.74 on behalf of its sponsors.

56. Like the other tests on the question submitted to the Commission at its earlier sessions, the draft resolution under consideration was mainly procedural in character. It concerned a one-week session of an open-ended working group prior to the forty-second session of the Commission, with a view to completing the work on the draft convention on the rights of the child. The task was an essential one, since, 25 years after the adoption of the Declaration of the Rights of the Child, the situation of children in many parts of the world still continued to be far from satisfactory and an international convention would make an important contribution to a genuine improvement in the situation of children all over the world. Numerous governments and international, intergovernmental and non-governmental organizations were showing an increasing interest in such a convention.

57. His delegation wished to point out that, when preparing the draft resolution, the sponsors had taken account of certain procedural and organizational proposals made by other delegations, mainly concerning the length of the working group's session in 1986, but had not thought it necessary to retain the proposals relating to substantive matters, namely, the situation of children throughout the world, since they would have changed the purely procedural character of the text and would have complicated the adoption of a decision.

58. It should be noted that the draft resolution had a very large number of sponsors.

59. The administrative and programme budget implications of the draft resolution were published in document E/CN.4/1985/L.86.

60. The CHAIRMAN announced that Italy, Greece, New Zealand, Mozambique and Venezuela had become sponsors of the draft resolution.

61. Draft resolution E/CN.4/1985/L.74 was adopted without a vote.

62. Mrs. KRAMARCZYK (German Democratic Republic) noted that the newly adopted text quite rightly alluded to the further progress made by the working group. In effect, it had been possible to adopt five new extensive articles.

63. Her delegation, which had participated actively in the working group, had noted that a growing number of States and non-governmental organizations were awaiting the final version of the draft convention on the rights of the child. Consequently, at its next session, the Commission should give priority attention to tackling that task. Her delegation was ready to make its contribution to that end.

64. Finally, her delegation wished to congratulate Mr. Lopatka on his outstanding work.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 23) (continued) (E/CN.4/1985/L.72)

Draft resolution E/CN.4/1985/L.72

65. Mr. BIGGAR (Ireland) introduced draft resolution E/CN.4/1985/L.72 on behalf of the delegations of Argentina, Australia, Austria, Canada, Costa Rica, Finland, France, Gambia, Italy, Japan, Netherlands, Panama, Peru, Uganda, the United States of America and his own delegation.

66. The text concerned the implementation of a certain number of recommendations formulated by the participants in the Seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief, held in Geneva from 3 to 14 December 1984. The recommendations would help to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief and were addressed to States, academic institutions and the United Nations system. All the measures proposed could be undertaken without difficulty and would unquestionably help promote tolerance and prevent discrimination in matters of religion or belief.

67. To take account of the wishes expressed during the discussions among interested delegations, the sponsors had agreed to amend operative paragraph 5 by inserting the words "where necessary" between the words "examine" and "the supervision" in the first line.

68. The sponsors hoped that the draft could be adopted without a vote.

69. Mr. NSANZE (Observer for Burundi) */ said that, on 7 March 1985, the International Association for the Defence of Religious Freedom had made a vicious attack on his country. In a violent indictment, it had accused Burundi of generally infringing the right to practice one's religion freely. His delegation was handicapped by the limited time available to it for the exercise of its right of reply, and would confine itself to a brief systhesis re-establishing the facts which the Association had misrepresented in such a casual manner.

70. First, since time immemorial, the people of Burundi had been imbued with religious ideals. Religion was inherent in their nature. Thus, they had practised a pure monotheism long before the recent introduction of Christianity on the threshold of the twentieth century. Their natural propensity to worship a transcendent God, "Imana y'Uburundi" had helped to bring about a wave of conversions to Christianity. Today, conversions to Christianity in Burundi beat all records in Africa, as authoritative source, namely, the Ufficio Centrale delle Statistiche del Vaticano (1982) revealed.

71. Second, since acceding to national sovereignty in 1962, Burundi had been exemplary in its implementation of all the treaties to which it had acceded and the United Nations decisions to which it had subscribed. In that context, it had shown a sacred, universal and effective respect for human rights and fundamental freedoms for all in religious

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*/ This statement has been given full coverage at the request of the observer for Burundi and in accordance with the decision taken by the Commission during the meeting.

matters, in accordance with the provisions of Articles 1 (3) and 55 (c) of the Charter of the United Nations, article 2 of the Universal Declaration of Human Rights and articles 3 and 6 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted on 10 December 1948 and 25 November 1981 respectively.

72. Third, an important event in the history of the nation attested unequivocally to the fact that the Government's respect for the religious aspirations of the people was not mere show. Article 16 of the Constitution which the people of Burundi had endorsed on the occasion of a universal referendum on 18 November 1981 stated that: "Freedom of opinion, religion and expression, confidentiality of correspondence, the right of assembly and to form associations shall be guaranteed in accordance with the forms and conditions established by law". The fact that the people, as the party directly concerned, had endorsed that a constitutional provision clearly proved that they had been willing for the Government to establish practical modalities, compatible with the general interest, for the exercise of religious beliefs. That legal basis could be invoked to reject the distortions of those who disparaged Burundi.

73. According to the allegations of the International Association for the Defence of Religious Freedom, most public religious activities were prohibited in his country. The facts adduced by his delegation would constitute a formal denial of such unwarranted assertions, made with incredible frivolity.

74. The organization decreed by the Minister of the Interior of the employment of the population's time was designed to resolve the conflict between the imperatives of economic development and spiritual needs. That incompatibility was due to reasons that were perfectly obvious, namely, geographical and human factors. More than nine tenths of believers had no means of locomotion. Most of them were compelled to walk long distances to their churches, which might be located several kilometres away from their homes. Daily assemblies for the purposes of worship had three consequences, namely, a protracted absence from the place of work and a fall in productivity as a result of the physical exhaustion caused by travelling to and from places of worship; those two factors led to a decline in production in the various spheres of the national economy.

75. The measures prescribed by the Government applied only to the daily collective participation by workers in religious activities during working hours. Apart from that particular case everyone was free to discharge his religious obligations individually, wherever he might be. On working days, before and after the compulsory working hours, every citizen had the right to practise his religion. Every Sunday and on the religious holidays declared obligatory by the Holy See and which were all public holidays in Burundi, parish churches and chapels were full.

76. The celebration of marriage according to the various confessions vied in solemnity and display with the commemoration of major national historical events. Religious instruction was not only free, but was encouraged and taken into consideration in the curriculum of State establishments. An innovation had, however, been introduced in relation to previous practices. Being a matter of individual conscience, religious instruction had been dropped from the list of subjects for which there were compulsory examinations. Optional attendance of religious instruction classes and the abolition of the relevant examination formed part of the series of measures adopted by the Government to strengthen respect a contrario for religious freedom.

77. The religions currently represented in Burundi had been introduced during the colonial era. At that time, Sunday had been decreed as a day of rest for all confessions. Independent Burundi had maintained that system which was applied everywhere, except in part of the Islamic world.

78. Recently, the Government had been confronted by demands that threatened a tradition that was well established and practised throughout the world, namely the observation of Sunday as the day of rest. Such a departure from a custom, which had become international law by the universality it had acquired, since it was observed in the overwhelming majority of States and by its perennity, had been demanded by the Church of the Seventh Day Adventists. That custom, which met the requirements of perennity and universality had become part of international law. In Burundi, the Second Republic's unswerving attachment to democratic principles imposed an obligation to accord all Churches equal treatment in a democratic national society. However, for the Government to accede to the request that Saturday should become a day of rest would be tantamount to infringing the relevant clauses of the international instruments prohibiting any discrimination based on religion, under the terms of Articles 1 (3) and 55 (c) of the Charter of the United Nations and article 2 of the Universal Declaration of Human Rights.

79. To institutionalize a day of rest exclusively for one religion would amount to introducing a different and, consequently, discriminatory legal system; it would give rise to a contradictory situation which would infringe the fundamental rights (see the afore-mentioned articles of the Charter of the United Nations), which, prescribed for all, took precedence over the claims of part of the whole, however legitimate those claims might be. Over and above the Government's primary concern to guarantee the equal rights conferred on all the Churches, if each of the others, perhaps for reasons of convenience, claimed an exception to the law, the result would be hopeless social and economic disruption. Confronted with the conflicting needs of the religions, secularism, in the form of the neutral State vis-à-vis religions, according to the principle stated by Renan, must prevail.

80. Was it not to spare the country such problems, which would be inevitable, that the Muslim hierarchical authorities had wisely accommodated themselves to the regulations applicable in Burundi, although they ruled over the destiny of a sizeable proportion of the population? The suspension of the pastoral or religious activities of certain leaders of the Adventist Church was consistent with the Government's obligation to assure compliance with the law by all, and the need to avoid the temptation, in certain circles, of establishing a State within the State.

81. Contrary to the assertions of the representative of the International Association for the Defence of Religious Freedom, the Government's decision was only against displaying crucifixes in public places that were not church property. However, they could be displayed without any restriction both in religious buildings and on church land. The representative of the International Association for the Defence of Religious Freedom had quoted article 6 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. However paragraph (e) of the same provision was unquestionably opposable, as an argument ad hominem, since it stipulated the freedom to teach a religion or belief in places suitable for these purposes.

82. In all countries throughout the world, places were provided for worship and for the objects relating thereto. In accordance with that principle, meetings for the purpose of prayer and the setting up of crosses were authorized throughout the country, but in the places specifically intended for that purpose.

83. Burundi had been criticized for prohibiting the ringing of church bells and the calling of Muslims to prayer by the muezzin from the minaret.

84. He had to make two comments on the exceedingly specious allegations made by the International Association for the Defence of Religious Freedom in that connection. The Association's reasoning showed that it viewed measures designed to defend human rights as infringements, which was an upside down view.

85. In the industrialized world, aircraft were forbidden to fly, land and take off at certain hours of the night so that those who were subjected to the noise of aircraft might sleep. Similarly, many countries were abandoning motorway or railway projects whose noise might disturb those residing nearby. In order to protect the right to sleep, the ringing of church bells was limited to reasonable hours of the night.

86. The fact that a magnificent mosque had recently been completed in the very centre of the capital proved conclusively that the Muslim community enjoyed all the rights compatible with its religious practices.

87. All this information went to show that the non-governmental organization in question, which had believed that it could catch Burundi out, had fallen into its own trap. In its determination to put Burundi in the dock, its blindness had prevented it from seeing the wood for the trees.

88. In conclusion, the misrepresentations of that organization gave Burundi the right to invoke the legal principle whereby Onus probandi incumbit actori (the burden of proof rests with the party making the accusation).

89. Some of the measures deemed indispensable that had been taken by the Government were merely intended to regulate worship, without in any way restricting it. His delegation called the ecclesiastical hierarchy to witness that there was no interference whatever by the Government in the affairs of the Churches. In the case of the Catholic Church, the close links between his country and the Holy See, represented by the Apostolic Nunciature at Bujumbura offered conclusive evidence that the State in no way interfered with religious freedom.

90. The introduction of Catholicism into Burundi earlier than the other confessions, the lion's share it had won and its predominance in all levels of society qualified Burundi as the eldest son of the Church in Africa.

91. Only a minute number of foreigners affected by the Government's abolition of certain secular privileges would dispute that state of affairs. In the contemporary conception of State authority, the determination of the Second Republic to consolidate the secularism of the State should not be misinterpreted. It was held to be salutary for both institutions, the one temporal and the other spiritual. The separation merely offered protection against encroachment by one upon the other's sphere of competence; in other words, rendering unto Caesar the things that were Caesar's and unto God the things which were God's. The spiritual power would do well to apply that sacrosanct principle strictly and to desist from entangling the roles assigned to the two different orders; that was a prerequisite if the State was to guarantee the consolidation of the spiritual power's position in Burundi, which it already exercised in a political and social climate free from any restrictions.

92. Deeply respectful of religious values since his elevation to the highest office, President Jean-Baptiste Bagaza was working zealously to ensure that the freedom of worship of all religious communities throughout the nation that complied with the precondition of the independence of the State vis-à-vis the various faiths was firmly guaranteed.

93. Draft resolution E/CN.4/1985/L.72 was adopted without a vote.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 14) (continued) (E/CN.4/1985/L.69)

Draft resolution E/CN.4/1985/L.69

94. Mrs. GARRIDO RUIZ (Mexico), introducing draft resolution E/CN.4/1985/L.69, recalled that the open-ended Working Group entrusted with the subject had been set up pursuant to General Assembly resolution 34/172, on 17 December 1979, to elaborate an international convention on the protection of the rights of all migrant workers and their families. The Working Group which had met periodically since October-November 1980, had prepared a draft convention whose first reading had been concluded. The sponsors of the draft resolution, anxious to guarantee the protection of the rights of migrant workers by an international instrument, commended the Working Group, which had discharged its task admirably.

95. She outlined the draft and expressed the hope that the Commission would adopt it by consensus.

96. The CHAIRMAN announced that Portugal had become a sponsor of the draft resolution.

97. Draft resolution E/CN.4/1985/L.69 was adopted without a vote.

RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 20) (continued) (E/CN.4/1985/L.3 and L.84)

98. Mr. TOŠEVSKI (Yugoslavia), introducing draft report E/CN.4/1985/L.3 and draft resolution E/CN.4/1985/L.84, said that the open-ended working group set up by the Commission on Human Rights to consider a draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities had unfortunately been able to hold only two meetings; the Group had therefore decided that it would not submit a draft declaration to the Commission, but that the Sub-Commission should be urged to study the proposals concerning the definition of the term "minority" with a view to facilitating the work of the Group in 1986.

99. Draft report E/CN.4/1985/L.3 and draft resolution E/CN.4/1985/L.84 were adopted without a vote.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1985/L.7 and L.8)

100. Sir Anthony WILLIAMS (United Kingdom), introducing draft decision E/CN.4/1985/L.7, whose administrative and programme budget implications were set forth in document E/CN.4/1985/L.9, said that the draft decision on the organization of the work of the Commission, differed little from that of the preceding session, and he therefore invited the Commission to adopt it by consensus.

101. Draft decision E/CN.4/1985/L.7 was adopted without a vote.

102. Mr. ROBERTSON (Australia) recalled that the Commission had decided to set up an open-ended working group that would be instructed to prepare a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (decision 1984/116). However, the Working Group had not found it possible to meet during the current session and his delegation had prepared draft decision E/CN.4/1985/L.8, in an attempt to find a compromise solution to the problem.

103. A typing error had found its way into the draft decision, which was shown as coming under items 12 and 3 and not 12 and 13. Moreover, his delegation had decided to replace the word "meeting" in the seventh line by the word "convened". The substance of the draft decision did not require comment. However, his delegation wished to state that it was anxious to avoid, at the next session, a recurrence of the current situation, in which it had been impossible, because of the Commission's calendar of work, for a sessional committee and plenary sessions to meet simultaneously. Accordingly, it proposed that the working group should meet before the session. The Commission had already had occasion to convene pre-sessional working groups which had proved to be useful. The fact that the Commission had already given its endorsement to the work envisaged in draft decision E/CN.4/1985/L.8 and the imminent completion of the Sub-Commission's study of the subject confirmed his delegation in the idea that the draft declaration was ripe for consideration by a pre-sessional working group.

104. Mr. JARDIM GAGLIARDI (Brazil) said that he would like the Australian delegation to amend the draft decision by replacing "pre-sessionally" in the eighth line by the phrase "immediately after the beginning of the session".

105. Mr. TOŠEVSKI (Yugoslavia) said that he had misgivings about the wisdom of convening, prior to the session, a working group on such an important subject without having an assurance that the Sub-Commission's documents and reports would be available; consequently, he would favour the proposal by the Brazilian delegation.

106. Mr. KOOIJMANS (Netherlands) said that the convening of a working group before the session was a particularly convenient arrangement for small delegations, which would find it very difficult to attend both plenary meetings and a group that met constantly for a week.

107. While it was extremely useful to have all the documents available, it should be borne in mind that the working group in question was instructed to draw up a draft declaration whereas the Sub-Commission was dealing with a draft body of principles.

108. Mr. ROBERTSON (Australia) said that the best way of resolving the issue was to vote on the proposal by the Brazilian delegation, since it reflected a perfectly justifiable view which might well be shared by a large number of delegations.

109. Mr. JARDIM GAGLIARDI (Brazil) pointed out that he had not wished to propose an amendment, and had simply made a suggestion.

110. Mr. HÖYNCK (Federal Republic of Germany) recognized that it was difficult for small delegations to take part in pre-sessional working groups but, in view of the importance of the subject and since meetings of pre-sessional working groups had proved to be useful, he thought that those delegations might make an effort.

111. Mr. GULYORGUIAN (Union of Soviet Socialist Republics) said that his delegation would in no way oppose the establishment of a working group, but that it thought that the question of organization must be settled. It therefore requested a separate vote of the proposal to delete the word "pre-sessionally" in the eighth line of the draft decision.

112. Sir Anthony WILLIAMS (United Kingdom) and Mr. MASFERRER (Spain) said that they preferred the idea of convening a pre-sessional working group.

113. The CHAIRMAN invited the Commission to vote, by a show of hands, on the proposal to delete the word "pre-sessionally" in draft decision E/CN.4/1985/L.8.

114. The proposal was rejected by 21 votes to 3, with 16 abstentions.

115. The CHAIRMAN invited the Commission to vote, by a show of hands, on draft decision E/CN.4/1985/L.8.

116. Draft decision E/CN.4/1985/L.8 was adopted by 30 votes to none, with 11 abstentions.

117. Mr. ROBERTSON (Australia) thanked the members of the Commission for the courtesy shown in the debate on the resolution. He was particularly grateful to the Soviet and other delegations which had abstained, but had not voted against the resolution. Thus, although there had not been a consensus, the Commission had not been divided.

118. The CHAIRMAN recalled decision 1984/115, which the Commission had adopted at its previous session:

> "The Commission decided to invite the Sub-Commission on Prevention of Discrimination and Protection of Minorities to be present, through its Chairman or another member it may designate, at the consideration of its report during the forty-first session of the Commission."

119. He invited the Commission to adopt a decision expressed in the same terms for its forty-second session.

120. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that the financial implications of the decision would be $US 2,500 for 1986.

121. The CHAIRMAN asked the Commission whether, in view of the financial implications just communicated to it, it agreed to renew for the following session the invitation in the terms he had indicated, on the understanding that the corresponding decision would be duly reflected in the report of the forty-first session.

122. It was so decided.

123. Mr. JARDIM GAGLIARDI (Brazil) said that he deplored the fact that, during the past year, several resolutions and decisions by the Sub-Commission on Prevention of Discrimination and Protection of Minorities which had had substantial financial implications had been implemented without the approval of the Commission. He requested that in future the Commission should discuss all the resolutions and decisions of the Sub-Commission and take a decision on them.

124. The CHAIRMAN recalled that the Commission took a decision on the resolutions in Section A of Chapter I of the Sub-Commission's report, which contained that body's resolutions and decisions, but it did not pronounce itself on decisions in Section B unless a delegation requested it to do so. He assured the representative of Brazil that his comment would be noted.

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 15) (continued) (E/CN.4/1985/L.33/Rev.1 and L.60)

Draft resolution E/CN.4/1985/L.33/Rev.1 (continued)

125. Mr. KOOIJMANS (Netherlands) said that, following the consultations for which they had requested further time, the sponsors, having regard in particular to an amendment introduced by the Federal Republic of Germany and comments by the delegations of Senegal, Peru and Colombia, had concluded that it would not be possible to achieve a consensus and that it would be advisable to defer the remainder of the discussions on the subject to the forty-third session, since the item was taken up on a biennial basis.

126. Mr. SENE (Senegal) endorsed the position of the sponsors of the draft.

127. Mr. MTANGO (United Republic of Tanzania) thanked the delegation of the Netherlands and the other sponsors for their understanding attitude. Indeed, Governments must be allowed more time to give careful study to the subject matter of draft resolution E/CN.4/1985/L.33/Rev.1 in order to be able to formulate appropriate policies.

128. The CHAIRMAN noted that there was no objection to the proposal made by the representative of the Netherlands on behalf of the sponsors of the draft resolution. The question of conscientious objection to military service taken up in draft resolution E/CN.4/1985/L.33/Rev.1 would therefore be taken up at the forty-third session of the Commission, as the representative of the Netherlands had proposed on behalf of the sponsors.

129. It was so decided.

The meeting rose at 6.15 p.m.